

NOTE TO MR. WARNER

SUBJECT: Scientific Pay Schedule Personnel

1. In considering the question of whether or not Agency Scientific Personnel (SPSr's) may have their compensation adjusted retroactively as a consequence of the enactment of the Government Employees Salary Reform Act of 1964 (P.L. 88-426), the following background materials are offered.

I. HR 20-24 dated 13 April 1964. This provides for a salary scale ranging from the minimum rate for a GS-16 (then \$16,000) to the highest rate for a GS-18 (then \$20,000) with eight step rates of \$500 each. It provides further that there shall be no prescribed time in grade for promotion within the SPS range. *[SEE A]*

II. Federal Personnel Manual materials

A. List of agencies which have authority to appoint personnel to P.L. 80-313 type scientific and professional positions *[SEE B]*

B. P.L. 80-313, as amended (5 USCA §1161 et seq.) which specifies the agencies having such authority including DOD *[SEE C]*

C. Civil Service Commission regulations which indicate that original appointments to P.L. 313-type positions and pay adjustments for incumbents require CSC approval. This regulation also provides that rate of compensation may not be approved retroactively. [SEE D]

III. Title VI of the Act of October 11, 1962, P.L. 87-793 (76 Stat 863) which amends P.L. 80-313 to provide that compensation for such appointments "shall not be less than the minimum rate of grade 16 of the General Schedule of the Classification Act, as amended, nor more than the highest rate of grade 18." [SEE E]

IV. P.L. 88-426 which, in Section 102(a), amends the General Schedule of the Classification Act of 1949, as amended, to increase the GS-16 rate to \$18,935 per annum. [SEE F]

V. Civil Service Bulletin 534-1 which indicates that any employee appointed under P.L. 80-313 or equivalent authority whose salary prior to the date of enactment (August 14) of P.L. 88-426 was fixed at a rate below \$18,935 is entitled to have it adjusted retroactively to \$18,935 as of the first pay period beginning on or after July 1, 1964. [SEE G]

VI. DCI directive of 7 August 1964 which provides for the equating of specified levels under the Scientific Pay Schedule to specified steps within the new GS-16---GS-8 range, effective upon the enactment of P.L. 88-426. [SEE H]

STAT 2. I am advised by [] OP, that we have presently on board eight SPSr's. However, since one EOD 19 August 1964, the matter of retroactive salary is concerned only with seven. I understand further that the compensation of these seven has been fixed under the Scientific Pay Schedule as follows:

- (a) one at \$17,500
- (b) three at \$18,000
- (c) three at \$19,000.

In this connection and as a matter of incidental interest, I understand also that two of the \$18,000 types were converted on 19 January 1964 from GS-16.

3. In analyzing the effect to be given to paragraph 2 of the DCI's directive of 7 August 1964, it should be borne in mind that

a. The Agency has not adopted the Classification Act of 1949, as amended, in fixing the compensation for its SPSr's. As [] would indicate that compensation has been fixed in terms of specific dollar amounts,

b. The Agency has not adopted P.L. 80-313, as amended, and

c. P. L. 80-313 is not part of the Classification Act of 1949. Thus when by the Act of October 11, 1962, P.L. 87-793, Congress may have in Title II, increased the compensation rates under the General Schedule of the Classification Act, it was in a separate Title VI that it amended P.L. 80-313, as amended, to provide that the rates of compensation for positions established pursuant to that Act would be not less than that of a GS-16 nor more than that of a GS-18. As a consequence of our SPSr's not having been brought within the scope of P.L. 80-313, it follows that they may not secure the treatment of which the CSC Bulletin No. 534-1 approves for those receiving less than \$18,935 under P.L. 80-313 type appointments.



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